

**SLATON VISITS
SCENE
OF PHAGAN
TRAGEDY
DURING THE
HEARING**

Solicitor Dorsey Closes
Argu-

ment Opposing
Commutation
of Sentence—Conley
Admits

Writing Part of Carter
Notes

HEARING RESUMED AT
2:30 IN
AFTERNOON

Lawyers Accompany
Governor

to Pencil Factory During Re- cess of Hearing—Dr. Wilmer Appeal for Clemency

Solicitor Hugh M. Dorsey completed his Argument before the Governor against the Commutation of the Sentence of Leo M. Frank at 1 o'Clock, having spoken practically since 9 o'Clock. When a Recess was taken until 2:30, Governor Slaton, accompanied by Attorney W.M. Howard, the Solicitor and Detective Starnes, visited the National Pencil Factory, where Mary Phagan was killed. Mr. Howard will probably make the closing Argument for Frank Monday afternoon, after which the Governor will take the Case under advisement.

The only other Speaker Monday morning besides the Solicitor was Dr. C.B. Wilmer, Rector of St. Luke's Episcopal Church. He urged the Governor to commute Frank's sentence.

By questions from Governor Slaton, it was developed from Solicitor Dorsey during the morning that Jim Conley now admits writing part of the Annie Maud Carter Letters, but claims that some of the obscene words in them were inserted by someone else. When Conley first got his freedom, he stoutly protested to

the Reporters, in the presence of the Solicitor, that he did not write these Letters.

Governor Slaton Monday morning resumed the Hearing of Leo M. Frank's Petition for Commutation of Sentence from Death to Life Imprisonment, which was commenced Saturday morning and adjourned over Saturday afternoon.

During Sunday, Governor Slaton studied the Record of the Frank trial, believing this use of the Sabbath was justifiable because the Case is one of life or Death, and for the further Reason that he must leave the City on Tuesday morning and wants to finish the Hearing on Monday if possible.

Solicitor Dorsey, when the Hearing was resumed, submitted a written Brief in opposition to the granting of Frank's Petition, and followed this with an Oral Argument. The Brief was sixty typewritten pages in length.

It was announced by Solicitor Dorsey that he had received a Telegram from Major C. E. McGregor, of Warrenton, Ga., who had intended to come to Atlanta on Monday and appear before the Governor in opposition to the Petition, saying he would not be here.

This was taken to mean that the only Speech on Monday in opposition to the Petition, would be the Speech of Solicitor Dorsey.

When the latter has finished, Attorney William M. Howard, of Augusta, will close the Argument on behalf of Frank.

ROOM FILLED.

Shortly after 9 o'Clock, the Attorneys entered the Private Office of Governor Slaton, and the doors were then thrown open,

as on Saturday, to accommodate Spectators. A crowd of 75 or 100 jammed into the small remaining space.

It was announced that Dr. C. B. Wilmer, Rector of St. Luke's Episcopal Church of Atlanta, and W. Woods White, the well-known Atlanta Citizen, wished to be heard (supposedly in behalf of Frank), and they were given seats near the Governor's Desk.

Attorney Howard handed the Governor the original notes, and the Governor then told Solicitor Dorsey to proceed with his Argument, asking him to present at the conclusion of his Argument some Petitions which he held in his hand and some of the Court Decisions in the Case.

Solicitor Dorsey said:

"Your Excellency, I was very much disappointed that the Gentlemen rested their Case in the beginning on a Statement of what they expect to argue. In view of the verdict of the Jury and the adjudication of the Court, I thought that in fairness they would go forward, fully. They have seen fit, however, to give this more the appearance of a technical Court matter. I am not intending to go exhaustively into the Case. I covered the State's contentions in my Speech to the Jury, a Copy of which you have asked for and which I submit. There are, however, additional matters to show the guilt of Leo M. Frank, and I will go into them.

"This Petition for mercy is based upon three grounds. First, that the Defendant was not accorded a fair trial. Second, that the evidence did not show him guilty beyond a reasonable doubt. Third, that Judge Roan was not convinced of his guilt."

"In his Appeals, the Defendant's Attorneys have said that it was humanly impossible for Frank under the circumstances existing at the trial to get a fair trial. I call your Excellency's attention to the Fact that they made no motion for a change of

Venue. It is inconceivable that Counsel for Frank, preeminent Criminal Lawyers, and fully acquainted with the people of this County, permitted him to go to trial here if it was humanly impossible for him to be given a fair trial here.”

“The Court on its own motion could have ordered a change of Venue. The Record in this Case shows that at the trial, the Disorder was not more than the Disorder which is incident to any large gathering. The Defense at first did not contend that there was any serious Disorder, but they began to make objections only when the conclusiveness of the State’s evidence became apparent. Even then, no motion for a new trial was made, until after the Arguments had been rendered.”

DECISION READ.

At this point, Solicitor Dorsey read from the Opinions of the Supreme Court in which it was stated that a Defendant might have friends in the audience to create a disturbance for the purpose of securing a new trial.

“I have Affidavits,” he went on, “which show the wisdom of this Opinion and show that this was done in this Case.”

“Judge Roan did not express any doubt

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FRANK HEARING ON BEFORE
GOVERNOR SLATON

(Continued From Page One.)

as to the fairness of Frank's trial. On the contrary, when he sentenced Frank, Judge Roan declared that the trial was fair. The six Justices of the Supreme Court of Georgia were united in saying he had a fair trial. The Division was occasioned only by the question as to the admissibility of Conley's evidence."

"Despite this action by the Supreme Court, each succeeding motion by Counsel for Frank has brought forward this charge, as have also the false and slanderous Statements appearing in Newspapers from coast to coast. It has even been printed that men in the crowd shouted to Jurors, 'Hang Frank or we'll hang you.' The Records show that during the trial, there were no cryings out against Frank whatever. Will the Statements to outsiders be set up above the action of the trial Judge? Will the Opinion of the trial Judge, and the Opinion of the Supreme Court, be disregarded in favor of these false Newspaper Reports? If so, then to use a mild expression, it will be a sad day for the Administration of Law in Georgia."

"In the Court Records, Frank has sought to create doubts by the same methods and false Statements used by those in charge of his publicity propaganda."

"Frank in making his motion to the United States District Court on the ground of being absent when the verdict was rendered again brought in his allegation of Disorder in the Court Room. But Judge Newman with proper respect for the State Courts disregarded this Plea and the Supreme Court of the United States upheld him, saying: 'The Petition contains a Narrative of Disorder and hostile demonstrations, but it appears that these allegations were submitted to the trial Court and to the Supreme Court of Georgia, and considered at different times by those Courts entirely free from mob domination, and both found the allegations to be groundless.'"

NEW AFFIDAVITS.

“But in view of the Fact that you have received Letters from prominent men outside of the State, I have brought here Affidavits from Officers, Jurors, and Citizens, showing that there was no Disorder or Demonstration during the trial; that there was no occasion for the solicitude of the public Press; and that at no time was there any Reasons for calling out the Militia.”

At this point, Solicitor Dorsey gave way, for the Governor, to hear from Dr. Wilmer, who asked for a Commutation of Sentence. He read a Petition to this effect, signed by a number of the leading Ministers of Atlanta, this being the same Petition that was read to the Prison Commission by Dr. John E. White, Pastor of Second Baptist Church.

The Petition strongly appealed for Commutation on the following grounds: That Commutation would not change the Jury's verdict, nor would it reflect upon the work of the Solicitor or the Judgments of the Courts; that a life Sentence would vindicate the severity of the Law; that time may disclose Facts about the Crime which are not now in evidence; that to commute would be an act both of Justice and Humanity.

After reading the Petition, Dr. Wilmer announced that owing to the different views of the various Ministers signing it, they had not deemed it advisable to include Appeals additional to those stated.

“However, speaking for myself,” said Dr. Wilmer, “and for the Ministers in General, I wish at the outset to repudiate any impression that there is anything here to indicate an Appeal for mercy. Such an Appeal would be based on a confession of guilt. The Appeal which I make is based on moral grounds and on a sense of Justice.”

PUBLIC SENTIMENT.

“The atmosphere, your Excellency, ought to be cleared for a consideration of this Case on its merits. I was surprised to read a few days ago when a certain public man declared that the sentiments of people outside of Georgia should not be considered, but that only the sentiments of the people of this State should be considered. That, sir, is a Declaration, that the Case should not be decided on its merits. I contend that you should give to the sentiment in Georgia and the sentiment outside of Georgia just that weight to which it is entitled and no more.”

“Several matters have been injected into this Case which tend to befog it, and it is with reluctance that I discuss them in public. A prejudice has been engendered between Jews and Gentiles. Even if it were true, as charged by some, that the friends of Frank have done anything of a wrongful character in his behalf, it would not be something for you to consider in an Appeal for Commutation. There would be no Reason why Frank should be hanged simply because of some misguided or misdirected efforts on the part of his friends.”

“There is another point to which I wish to call your attention, and I don’t know whether I should say it in public. That is, class prejudice has been brought into this Case—a prejudice between employee and employer. This was obvious before the trial, during the trial, and has been perfectly obvious since the trial.”

“Then, your Excellency, politics has been injected into this Case, and it also should be eliminated from consideration.”

“I referred a few moments ago to the sentiment inside and outside the State. Unconsciously, perhaps, those who Appeal for and those who Appeal against, agree that there is something in this Case which draws public sentiment into play.”

JUMP AT CONCLUSIONS.

Here Dr. Wilmer related an incident to illustrate the Fact that there is always a certain class of people who jump at conclusions. He said in the Tennessee Valley a young girl was murdered. The Authorities arrested a man on suspicion, and it was with difficulty that the Conservative element of Citizens managed to restrain and prevent the people from lynching him, although there was no direct evidence of his guilt.

“There is a class of people,” Dr. Wilmer continued, “who mean well, no doubt, but they jump at conclusions in Cases like this. It takes a trained mind to hold its Judgment in suspense, in the absence of evidence.”

“A verdict should be the kind of a verdict that satisfies the intelligent, thinking class of Citizens. In elections, votes should be counted. In this Case, votes should be weighed. Those who feel a reasonable doubt in this Case are, in the main, the supporters of Religion and character in the Community.”

“I want to say to you that nothing in my fifteen years of Residence in this, my adopted State, has so amazed me as the contention by many that we ought to hush now and that the doors ought to be closed on this Case because the Courts have passed on it. These fail to take into consideration the full Machinery provided by Law. The Majority Report of the Prison Commission on this Case did not take into consideration the full process of the Law, and the Ex-Governor who appeared before you on Saturday held, like the Majority of the Commission, and like many others, that when the Jury and Supreme Court pass on a Case that should settle it. Let those who say the Law must be sustained open their minds and take into consideration the complete Legal Machinery provided. This Machinery includes an Appeal to the Executive and

bestows upon him the Power and Authority to decide such an Appeal in such a way as his Judgment and conscience dictate.”

“I wish briefly to refer to the atmosphere of this Community before and during Frank’s trial. I do not propose to reply to what I have just heard Solicitor Dorsey say on this subject, but I am going to suggest something for him to reply to. Even should we admit that there was no suggestion of violence whatever on the part of the Spectators at the trial, it should be remembered that psychological influence is far more subtle and far more calculated to affect the mind of a brave man than mob violence.”

EVIDENCE PREPARED TO FIT.

“I wish to call your Excellency’s attention to the way in which the evidence for the prosecution was worked up by the Detectives. I appeal to your knowledge of how the testimony of the Principal Witness on which Frank was convicted was prepared day after day and week after week to make it ‘fit’ the theory of the State. I cannot give my consent to hang a man on testimony. The self-interest of this Witness should also be taken into consideration. I don’t believe the evidence in this Case was ever carefully analyzed before the Jury.”

“If there is any doubt in your mind as to what you should do, then there is no doubt as to what you should do. Unless the Governor of this State can say in his own mind that this man is absolutely guilty beyond a reasonable doubt, it is his Right and his solemn duty to give him the benefit of the doubt.”

“No matter what may be said about the working up of the sentiment in this Case, when the Prejudice and passion have faded away and the future Historian, summing up, and writing of him who made the final decision, would, if the Governor refused

to commute, have to write that he did so in the face of the best Legal and Judicial Opinion of his own State."

This concluded Dr. Wilmer's Argument and Solicitor Dorsey resumed.

DORSEY REPLIES.

"It is not my purpose," said he, "to alter the course of my discussion in order to reply to Dr. Wilmer. Most of what he has said has been heard from other Sources over the Country. He and Mr. Osborn, the handwriting Expert, may stress such indefinite propositions as hypnotic and psychological influences, but I will say that it was in the atmosphere that there was no chance to convict him. A Judge on the Bench who was my friend advised me not to press the Case. The Newspapers for ten days made fun of the evidence in course of preparation. Only after the medical and other direct evidence showed that the girl met her death in thirty minutes after she left home did public sentiment get the idea that Frank was guilty. I am not going to take up your time to reply to that portion of Dr. Wilmer's Statement to the effect that the intelligent, religious people believe in Frank's innocence and the unintelligent, irreligious people believe in his guilt. The Detectives who worked up the evidence of the State are as good men as he and as good as any other men of the cloth in Atlanta. I want to state right here and now that the State had absolute conclusive evidence of Frank's guilt without, and independent of the testimony of Jim Conley."

The Solicitor here returned to his written Brief, reading therefrom, and stated that he had Affidavits from the Sheriff and Sheriff's Deputies, Police Chief Beavers, Colonel Pomeroy, of the Fifth Regiment, Newspaper Reporters and other Citizens in refutation of the Charges of a hostile atmosphere and violent demonstration during the trial.

TOM-TIT and TURKEY.

He remarked that these Charges could be likened to a “tom-tit” in the original motion for a new trial and a *turkey gobbler* when Frank’s Lawyers reached the United States Supreme Court.

Passing to the Second Division of his Argument—namely, the doubt as to Frank’s guilt—Solicitor Dorsey said:

“It is admitted that Mary Phagan was murdered in the Pencil Factory. Frank’s early innuendos led the Detectives to suspect Gantt, later to suspect Newt Lee.”

“The State put in evidence ten Witnesses, mostly girls, who testified that Frank’s character previous to the Crime was bad. They testified that his character for lasciviousness, which furnished the motive for the Crime, was bad. Frank’s Counsel could have Cross-Examined these Witnesses. The State could not. Frank only could have brought out specific instances and could have made an effort to disprove them. If these Witnesses had been prejudiced because he was a Jew or because he was an Employer, or any of that stuff that Dr. Wilmer talks about, if they were unworthy of belief, that could have been demonstrated to the Jury. Why was it that Frank did not avail himself of this privilege? Why was it that he withheld from the Jury what only he could bring out? It is true that these Witnesses were only poor working girls, but will Frank now insist that they are Perjurers because he and his Counsel dared not Cross-Examine them? The Records, however, do show acts on his part, previous to the day of the murder, which show bad character.”

“Among other things, it was shown that he was in the habit of visiting the Dressing Rooms when the girls were not fully clothed and leering in at them. His explanation of this was the lame Statement that he was trying to break up, flirting from the

windows, something he could have done through the Fore-Lady. It was shown that he was given to meeting one of the Fore-Ladies in a secluded Room, and remaining there with her, fifteen minutes or longer. At the trial, the State was ready to show many specific instances, and did show them in a few Cases, where his Statement opened the way. Leaving out Conley's testimony, we showed that Frank was a man of lascivious character. Did Frank know Daisy Hopkins? Eliminating Conley, Dalton swore that he saw women in Frank's Office and that Daisy introduced him to Frank in that Office. The State produced Witnesses who testified that they had seen Dalton go into the Factory accompanied by a woman. Daisy swore on the Stand that she did not know Frank. The State proved that she was a woman of bad character and that she had worked at the Factory. The State introduced a Witness who saw her going into the Factory one Saturday afternoon and who saw her again on the same night, and if the State had been allowed it would have, by that Witness, cleared up one of the points that has been in controversy."

CHARACTER EVIDENCE.

"Frank's Character was a disputed point. The Jury was instructed how to weigh the evidence and to test the credibility of these character Witnesses. They found by their verdict that these Witnesses told the Truth and that this character was bad. They heard the Witnesses testify, studied their demeanor upon the Stand, and were they not better able to Judge than these Gentlemen from a distance who write so many Letters?"

"This Case was won before the Jury. They had an opportunity of hearing these Witnesses, of hearing all of the Witnesses in this Case, where more Perjury has been committed than in any other Case ever tried in this State."

“Mary Phagan was a well developed and extremely pretty girl. Despite Frank’s Statement, the State showed that he did know her, and that he had been intruding his attentions upon her. In contradiction of his Statement, the State proved that he knew her, and was enamoured of her. Gantt, the man who was attacked by Frank, and the man who was locked up at Frank’s instance, at a time when there were more suspicious circumstances against Frank than there were against Gantt, testified that he saw Frank talking to Mary and remarked to him at the time, ‘You seem to know Mary pretty well.’ Frank was seen talking to her and insisting upon talking to her when she was backing away from him.”

“Saturday was a holiday, and notices had been posted, after Mary left the Factory on Monday, saying that the Employees would be paid on Friday. The State contends that Frank in making up the payroll knew that Mary would come, not on Friday, but on Saturday at noon, Frank was asked by Helen Ferguson to let her have Mary’s pay, but contrary to the custom of the Factory he refused, and he refused because he wanted Mary to come there on Saturday. That is a conclusive inference if Conley is to be believed. The Detectives could not have put that into Conley’s head, even they are not so stupid as some people would have you believe.”

“On the Extraordinary Motion before Judge Hill, we were able to show by the wife of a substantial Citizen that she saw Conley and Frank on the Street at the exact place where Conley says they met. By another good woman, Mrs. Waites, we proved that she saw Conley and Frank talking together in front of Sig Montag’s Office. Tillander and Graham both testified that they saw a Negro, not drunk, as the Defense contends Conley was, sitting in the Factory just where Conley says he was stationed by Frank.”

“Still further, Mrs. J.A. White testified that she saw a Negro there. We are authorized by the Defense to assume that it was Conley, as the Defense finally placed Conley there and claimed that there, he killed Mary Phagan.”

TIME EVIDENCE.

“Frank says he did not see Conley. Mrs. Waites says he did. Tillander and Graham say Conley was there. Mrs. White says she saw a Negro there about 12:30, the time Mr. Howard says they concede Mary met her death. Let them explain why Conley did not assault Mrs. White.”

“Conley was undoubtedly there at 11:40 and still at 11:50. Conley knew that Tillander and Graham saw him. He knew that other people had seen him there on previous Saturdays. Yet the Defense would have you believe that he murdered the girl. Yet he showed up for work Monday morning and was around with the Detectives and Newspaper men, and did not stay at home like Frank did. Frank at that time had engaged at least two Lawyers.”

“On Friday, Mell Stanford, an unimpeached Witness, swept up the Metal Room, where eleven people say they saw blood on Monday, and on that Friday he saw no blood.”

Dramatically raising his hand, the Solicitor here exclaimed in a very much louder voice:

“I went there and I saw that blood, and there is no doubt that it was blood.”

“Barrett and Mrs. Jefferson say there was no blood there on Friday, yet they saw it on Monday. Barrett says there was no hair on his Machine Friday evening, yet the first thing Monday morning the strands of hair on the Machine, which according to the Defense’s own Witness, was the same color and texture as Mary

Phagan's hair. This in conjunction with the wound on her head and with the blood spots show that Mary met her Death on the second floor. Still further, blood was found on the Route to the elevator."

"Personally, I took five men a week after the murder, and lighting up every nook and corner in that Factory, we made a search and we did not find any suggestion of blood or bloody sticks on the first floor. McWorth and some other Pinkerton men claimed to have found, on May 15, blood where the Defense claims Conley was sitting. The finding of blood on the second floor was reported by Frank's own Employees. The evidence shows that there was blood on Frank's floor, and that there was no blood Conley's floor."

CONTRADICTORY STATEMENTS.

At this point, Solicitor Dorsey pointed out at length what he termed contradictory Statements made by Frank.

"In one sworn Statement," said he, Frank said the girl came in at 12:05 or 12:10 or maybe 12:07. In another Statement, he said it was between 12 and 12:30. One Statement was made before Monteen Stover came into the Case and disclosed that Frank was not in his Office when she went there. The idea that Frank, the Statistician, was out of his Office during that half hour and did not remember going out is absurd, He only undertook to dodge when he realized that Providence had sent little Monteen Stover into the Office at the very time when he must account most minutely for his movements."

The Governor here asked Mr. Dorsey whether Frank knew about Monteen Stover at the time he testified before the Coroner's Jury.

“He did not say,” said the Solicitor. “That was before he knew that the State could scientifically determine the time of Mary Phagan’s Death. Before the Coroner, Frank said he left the Factory at 1:10. In his Statement before the trial Jury, he claimed to have looked at his watch when he was leaving and the time was 12:50. By this, he would get away from Conley and away from Albert McKnight, and arrange so that the Perjury of little Helen Kearn might come to his rescue. At the Coroner’s inquest, he said he caught a Washington Street Car at the corner of Alabama and Broad Streets. At the trial, he said he caught a Georgia Avenue car at the corner of Whitehall and Alabama Streets.”

“The Jury, your Excellency, had an opportunity of hearing this Kearn child testify. She is the daughter of a man who was the Employee of an Official of the Factory. The Jury must have held that her testimony was not worthy of full credence, but was simply another of these manufactured circumstances to support the Minute Alibi which the Defendant attempted to palm off. If the ignorant Conley lied, Frank, the University Graduate, has made many most glaring Misstatements and has frequently contradicted himself. Eliminating Conley, there are many circumstances which are inconsistent with any hypothesis save that of guilt.”

“First, Frank claims to have canceled an engagement to attend a Baseball game. There is the testimony of Albert McKnight of his demeanor that day when he went home to lunch, and, while the Defense made an effort to discredit this testimony, they did not make a dent in it.”

FINANCIAL SHEET.

“Frank contends that he did not make out the Financial Statement Saturday morning. Miss Fleming testified that she saw

him making it out. In answer to questions, she declared that it was always Frank's custom to make out the Financial Sheet before 12 or 1 o'Clock."

"At this point in the trial, Attorney Arnold, for the Defense, interposed and asked Miss Fleming if it was not true that Frank did not make out the Sheet Saturday morning on the day in question. She answered that he did not on this particular morning. That, your Excellency, was a sample of the Perjury in this trial, right under the very eyes of the Jury."

"It was the contention of the State that Frank did not make out the Sheet on Saturday afternoon, as he claimed, but that he began on it Friday afternoon and finished it Saturday morning, it being his intention to attend a Baseball game Saturday afternoon. Now, the State contends that there was no Reason for him to return to the Factory Saturday afternoon except to dispose of Mary Phagan's body."

"At the Coroner's inquest, Frank said, and I quote his exact language: 'I thought I was going to the Ball Game, but the weather was so raw and threatening that I decided not to go.' At the trial, Frank testified that he telephoned Mr. Ursenbach's cook to tell Mr. Ursenbach that 'on account of some work at the Factory, I would be unable to go with him.' Previously Frank had not stated with whom he had the Ball Game engagement. It appeared from this testimony that he had the engagement with Ursenbach."

"The State has consistently insisted that Frank went back to the Factory that Saturday afternoon to dispose of the body. On Friday afternoon, Frank had arranged with Newt Lee, the Negro Watchman, to come to work at 4 o'Clock, Saturday afternoon, which was an hour earlier than usual. When Lee came, unusual things had happened. The double inside door was locked. When

Lee went up at 4 o’Clock, Frank, contrary to his general custom, which was to sit at his Desk and give directions to Newt while the latter was at the Clock outside, met Newt at the Clock and instructed him to leave and stay away for two hours, that is until 6 o’Clock, which was an hour later than usual and two hours later than he had originally directed. Newt Lee testified that he asked permission of Frank to go down in the Shipping Room and take a nap, but that Frank insisted on his ‘going out and having a good time,’ as Frank expressed it. Newt testified that when he came, Frank manifested great nervousness while changing the slip in the time clock, and that when Frank met Gantt at the door, he hung his head and appeared to be frightened. This Fact was testified to both by Lee and Gantt, two men to whom Frank sought to direct the finger of suspicion. When Gantt told Frank he wanted to go upstairs and get a pair of shoes he had left there, Frank stated that he had seen those shoes swept out with the trash. Whereupon Gantt said he had left also a pair of tan shoes upstairs.”

“Then Frank was obliged to allow Gantt to go into the Factory, and lo and behold, Gantt found both pairs of shoes, the black ones and the tan ones. They never produced any sweeper who testified that he had swept out any shoes. That story carries on its face the indication that it was false.”

AT THE INQUEST.

“At the Coroner’s inquest, Frank said he told Gantt that he had given a pair of shoes to some Negro.”

“In attempting to explain why he telephoned Newt Lee Saturday night, Frank claimed he wanted to find out if Gantt had left the Factory. If you could have seen Frank and contrasted his attitude with the physical Facts in the Case, you could not have escaped the conclusion that he was guilty.”

"Newt Lee testified that was the

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SLATON VISITS SCENE

OF PHAGAN TRAGEDY

DURING THE HEARING

(Continued from Page 2.)

first time Frank had ever telephoned him. On the Occasion when the Detectives led Frank into a Room with Newt Lee to see what they could get out of the Negro, Frank, according to Newt Lee's testimony, said to him, 'If you keep this up we'll both go to hell.'"

"If the Detectives were negligent in their duty, it was because they did not immediately place Frank under arrest like

they did Lee. They were afraid of the powerful influences behind Frank.”

“Lee, a poor and ignorant Negro, with no friends, no money, and no influence behind him, was soon vindicated and released.”

Solicitor Dorsey then referred at length to the telephone conversation between Detective Starnes and Frank on Sunday morning after the murder, Frank being at his home on Georgia Avenue. He said Frank, in his Statement at the Coroner’s inquest, testified that Starnes telephoned him and asked him if he remembered Mary Phagan, and that he told Starnes he did not.

“But on the Stand during the trial,” the Solicitor continued, “when Frank could be kept from talking about the Financial Sheet, he said Starnes telephoned him and told him he wanted him to come to the Factory right away, that he (Frank) asked ‘What is the matter; has there been a fire?’ and Starnes said, ‘No; there has been a tragedy.’ Frank said at that time no name was given him. He tried, in this way, to circle around what he had said at the Coroner’s inquest.”

“The Detectives testified that the name of Mary Phagan was never mentioned to Frank until he got in the automobile to go to the Pencil Factory, and that Frank then did not ask anything about who the girl was. Frank, at the inquest, claimed that Detective Starnes told him he wanted to identify somebody.”

“I would like to take up the testimony of Boots Rogers, who, since the trial entered the Service of the celebrated so-called Detective, William J. Burns, and who is now in his employ. Rogers, although later engaged in Frank’s behalf, never undertook change an iota of testimony given by him at Frank’s trial. At the trial, he testified that when he and the Detectives went to Frank’s house in his (Rogers’) automobile that Sunday morning, Frank

immediately had Mrs. Frank telephone to Superintendent Darley to meet him at the Factory. This was significant. He wanted the support of Darley at this time, just as later he wanted the support of Attorneys Rosser and Haas when he was being examined at Police Station, and just as later he wanted the support of the Pinkerton Detectives whom he had employed and whose evidence he afterwards sought to repudiate."

"Rogers testified that when he and detectives went to Frank's home, Frank asked Detective Black if the Night Watchman had phoned him. He testified that Frank declared he thought he dreamed of hearing the phone ring at 3 o'Clock in the morning. This was the very time when Newt Lee and Policeman Anderson were trying to ring him up to tell him of the murder."

ROGERS' TESTIMONY.

"Rogers testified that Frank was extremely nervous, and that he explained this nervousness at the Factory as being due to the chilly ride in the automobile. Rogers testified that Frank rubbed his hands and betrayed other evidences of agitation; that he denied knowing Mary Phagan; that while they were at the Undertaker's, he did not see Frank look at the corpse."

"Holloway, the Day Watchman, in an Affidavit made before the arrest of Conley, and before he had visions of a reward in connection with the arrest of Conley, whom he called 'his nigger,' stated positively that on Saturday before 12 o'Clock, he locked the elevator box as usual and hung the key on a nail in Frank's Office. He testified that he left the Factory before 12 o'Clock, although on other Saturdays he usually remained there until 4. He testified that on Sunday morning, when Frank ran the elevator down to the basement, he was very nervous. At the trial Holloway changed his testimony, as contained in the Affidavit, and testified that the switch box was never locked, it being against the Rule of

the Fire Department, or the Fire Insurance people, or something to that effect.”

“On that Sunday morning, Frank, it appears, was the only one of the crowd in the Pencil Factory who introduced subjects other than the Death of Mary Phagan. He talked about a suit of clothes, coffee, and looked over the Financial Sheet and called attention to it on his Desk. His nervousness was not only observed by the Police and Detectives with him, but by outsiders. A man named Grice, a clerk of the Atlanta & West Point Railroad, not connected with the crowd, testified that his attention was particularly attracted by Frank’s extreme nervousness.”

THE TIME SLIP.

Reverting back to Boots Rogers’ testimony the Solicitor said:

“Rogers testified that when the Detectives suggested to Frank that he go to the Station with them, he turned to Darley and said: ‘I’d better put in a new slip, hadn’t I?’ Then, according to Rogers, Frank put in a new slip, examined the one he took out, and declared it was punched properly and correctly. In other words, that Newt Lee had punched the clock every half hour. This eliminated the necessity of an investigation of Newt Lee’s Residence. If the time slip was O.K., as Frank then said it was, Lee would not have had time to go home between punches. Later Frank had time to tamper with the slip, and on the following Tuesday he found a skip in it, whereupon he suggested to the Detectives that Lee might have had time to go to his home. He induced the Detectives to go to Lee’s house, where Detective Black found a bloody shirt. This looked bad for Lee until the City Chemist, Dr. Claude Smith, examined the shirt and found there was odor on it and discovered that the blood had been smeared on the inside of it as well as on the outside. This would seem to indicate that Frank had procured the planting of the shirt.”

“Darley, the Superintendent of the Factory and Franks’ friend, testified that Frank later told him it looked as if the murder had been committed in the basement. Darley testified that when Frank came to the Factory on Sunday, he was nervous and shaking while on the elevator, that Lee was composed, that Frank, sitting on his knee, in the automobile En Route to the Station house, trembled noticeably, and that Frank before left the Factory picked up the Financial Sheet and made some remark about it. The only answer to all these things is that Frank was guilty.”

“As far as possible, I want to omit Conley’s testimony and the testimony of the City Detectives. I will now take up the testimony of Harry Scott, one of Frank’s own Detectives. He said Frank told him he left the Factory at 1:10 o’Clock, Saturday afternoon. He said Frank sighed and took deep breaths and otherwise appeared to be nervous. He said Frank told him Mary Phagan came into his Office about 12:10. This could not be true, If it had been, she would have met Monteen Stover.”

“They tried to get Scott not to report to the City Detectives and State’s Officers. Scott testified that Frank told him that Gantt knew Mary Phagan well and paid a good deal of attention to her. For Frank to have known that he was obliged to know Mary Phagan himself.”

HOWARD QUESTIONS DORSEY.

At this point, Attorney Howard interrupted the Solicitor to say that he wished to take advantage of the Solicitor’s invitation to call his attention to any inaccuracies. Holding the Record in his hand, Attorney Howard remarked, “You will see here, Mr. Dorsey, that Scott, on Cross Examination, testified that he was not sure whether he got the information about Gantt knowing Mary Phagan from Frank or Darley.”

Solicitor Dorsey said, "That was on Cross-Examination."

Attorney Howard: "Yes, but that was what he testified when asked the direct question. I just wished to call your attention to that."

Solicitor Dorsey continued: "On Monday following the murder, when Frank was left in his Office and was watched by Detectives from across the street, he walked to the window twelve times during thirty minutes and restlessly looked out. Jim Conley testified that on this Monday morning Frank twice came upstairs where he was sweeping and told him to keep his mouth shut. Other Witnesses, while they did not hear what Frank said to Conley, testified that they saw him upstairs once or twice Monday morning."

"Attorney Rosser put in his appearance before Frank was placed under arrest, and was present when Frank made his first Statement to the Detectives, over his (Rosser's) protest."

Mr. Dorsey again reviewed the conversation alleged to have occurred between Frank and Newt Lee when the Detectives locked them up together.

"The Detectives were quite a while," he went on, "finding out that Jim Conley could write. Frank knew he could write, and although Conley was under arrest several days before the Detectives found it out, Frank did not turn over to them an Order written by Jim which he had in his safe."

CASE OF GEORGE EPPS.

Solicitor Dorsey charged that after George Epps, the Newsboy friend of Mary Phagan who testified he came to Town with her on the Street Car, gave his evidence at the trial, the Burns Detectives, or other Agents for the Defense, decoyed him

to Birmingham and obtained from him another Affidavit which Epps later repudiated before Judge Hill.

“It was overwhelmingly established,” the Solicitor continued, “that there was blood on the second floor of the Pencil Factory. Employees of the Factory said it was blood, the Police said it was blood, and Dr. Claude Smith, who examined it, said it was blood.”

“Frank did not produce any analysis of the blood claimed by the Defense to have been found on Conley’s floor.”

“At the trial Newt Lee testified he saw an Employee by the name of Duffy with his finger cut and bleeding over the place where the blood spots were found. Duffy denied this. Later Burns and his Agents bribed and ran Duffy away. But we caught him. They bribed and intimidated Epps, and were caught again.”

“A week after the murder Frank testified at the Coroner’s inquest regarding the blood on the second floor that he never saw any blood but did see where the floor had been chipped up. At the trial, Frank told the Jury he went over and examined these spots by a strong flashlight. The State contended Frank, never any more looked at the blood of his victim than he looked at the face of his victim.”

“Barrett discovered Mary Phagan’s hair on the lathe handle. He testified there was none there, when he left the Factory Friday but that he found it there Monday. This hair was identified by Frank’s own Witness, Magnolia Kennedy, a friend of the dead girl, as being the hair of Mary Phagan.”

DORSEY GETS IMPATIENT.

At this point, Attorney Howard again interrupted the Solicitor, and, pointing to a page in the Record, remarked:

“Mr. Dorsey, I wish to call your attention to the Fact that this Witness’ exact words, according to the Record, were, on being questioned, ‘it looked like her hair.’”

This interruption seemed to make Solicitor Dorsey impatient.

“I don’t care how much you quibble,” he retorted in an irritated tone, “The Fact is that Frank’s own Witness said it was Mary Phagan’s hair.”

Attorney Howard: “I simply want to call your attention to the Fact that the Record shows differently.”

Solicitor Dorsey, with a show of feeling: “She said, as strong as she could say it, that it was Mary Phagan’s hair. All she could say was that it looked like her hair. All quibbling aside, she identified the hair as far as she could identify it.”

“The cord around the girls’ neck furnishes another circumstance. The State was able to show at the trial the quantities of similar cord were on the floor, and much of it right outside of Frank’s Office. There was none in the basement.”

“Pads of Paper like that on which one of the murder notes was written were to be found only in Frank’s Office.”

THE “BECKER” NOTES.

“On the Extraordinary Motion, the Defense tried to show that one of the notes bore the name Becker,’ and that all of the Papers used by Becker had been carried down to the basement. The State produced Witnesses who swore they took out the Order Books from Becker’s Desk and piled them in Frank’s Office. We were able to show that the basement had been cleaned out of such Paper a short time before the murder.”

“Now we come to the time slips. On Sunday morning, after the discovery of the Crime, Frank scanned the time slip and said that it was correct, and that it did not leave Newt lee sufficient time to have made a trip to his home.”

“Tuesday, when the net was tightening, Frank brought in a time slip as the original and said that it was not correct. This incorrect slip gave Lee time to go to his home. Then Frank deftly suggested that the Detectives search his home, his words carrying the suggestion that they might also search the Negro’s home. In other words, Frank, at first, didn’t want to break Lee’s neck, but later was willing to do that to save his own neck.”

SCIENTIFIC TESTIMONY.

“I wish to say a word about the Scientific testimony. The State’s Physicians were chosen for their scientific knowledge, and they demonstrated that the girl met her death within five or ten minutes after she entered the Factory. The Physicians put up by the Defense were chosen more because they were the Family Physicians of the Members of the Jury, although the Defense objected to my arguing this point, although wives of the Jurors had told me they were being asked for the names of their Family Doctors.”

“Another circumstance was the unnatural Telegram sent Mr. Frank after the discovery of the Crime.”

“A girl was found in the cellar,” says the Telegram, putting the body as far as possible away from Frank’s own Office. “The Police will eventually solve the Mystery,” said the Message, for Frank was preparing his uncle for what was to come. This Telegram is pregnant with significance. The Letter, written on the afternoon of the murder, was undoubtedly the product of a guilty mind.”

“‘It is too short a time for anything of importance to have happened in the Factory since you left,’ Frank wrote.

SELIG’S TESTIMONY.

“I will now turn to the action of Frank’s relatives. Emile Selig, his Father-In-Law, testified that on the Sunday, he didn’t refer to the tragedy at the Factory. Mrs. Selig says that he didn’t mention the name of the girl.”

“If they told the Truth only guilt sealed his lips for if innocent, he would never have remained silent, while the whole town throbbed with the News.”

“If it had been only a dog found dead under such circumstances, he would have commented upon it.”

“By his own In-Laws, he has been shown guilty.”

“The Affidavit of Minola McKnight shows that Frank virtually confessed the murder to his wife. That Affidavit, repudiated it is true, was nevertheless signed in the presence of George Gordon, her Attorney, and I tell you it would never have been signed if it was not the Truth.”

“The State contends, your Excellency, that even without the testimony of Conley, the conclusion of guilt is irresistible.”

“Why should a part of her skirt have been tied around her head to stop the flow of blood if she had not been murdered on the second floor? Why would it have been necessary if she was killed in the basement?”

“They say the condition of the body showed that the murder had been committed in the basement. The face was black, not so much with dirty, as because the blood had been forced there through strangulation and the length of time she lay there.”

Governor Slaton at this point interrupted the Solicitor to ask the State's Theory of the continuity of events, leading up to the murder.

"Do you claim that the girl was violated after she had been killed" he asked the Solicitor.

STATE'S THEORY.

"The State has always contended that Frank was a pervert," answered the Solicitor.

"We contend that when Frank followed her back to the Metal Room, he made improper proposals to her, which she repulsed; that a scuffle followed and that her head struck the Machine, where the hair was found, and hurt her; that Frank had lost control of himself and that he continued to the accomplishment of his purpose. Authorities cite many lust murders, and their methods of finally disposing of their victims is by choking them."

The Governor then asked that the abrasions found by Dr. Harris be described.

Mr. Howard injected this Statement:

"Mr. Dorsey, you frequently used the word ravished in your Speech."

The Solicitor answered: "The Jury understood me, Mr. Howard."

The Governor told Mr. Dorsey to proceed with his Argument, and the Solicitor read from a Decision in a Case carried to the New York Supreme Court by Abe Hummeil and afterwards to the Pardoning Powers.

“As in this Case,” he commented, “Hummell used the Newspaper in an effort to create a doubt that would have the verdict of the Jury disagreed.”

“The Pardoning Power, your Excellency, was never intended to be used in reviewing a Jury’s verdict, but in correcting mistakes, which subsequent Developments brought out.”

“In this Case, the guilt of the Defendant has been almost mathematically demonstrated.”

As the Solicitor appeared to the concluding, Governor Slaton said:

“Do you intend, Mr. Dorsey, to make any Reference to the Annie Maud Carter notes?”

“During the Hearing of the Extraordinary Motion for a new trial,” said the Solicitor, “William M. Smith, then in my employ, was delegated to get his Affidavit.”

CONLEY ADMITS CARTER NOTES.

“Now Conley admits writing certain portions of these notes, while other parts he says, he didn’t write, especially some of the worst parts.”

This Statement caused a ripple of unusual interest among the Attorneys for Frank, for Conley had asserted, just after his recent release from the chaingang, that he had not written the notes, and he made the Statement in the presence of several Reporters and the Solicitor.

Mr. Dorsey referred, without much further comment, to the Record of the Extraordinary Motion of a new trial, which he told the Governor would explain fully how those notes were obtained.

Continuing his speech, Mr. Dorsey said:

“Judge Roan’s Letter, as Mr. Patterson of the Prison Commission says, amounts to little more than to a Repetition of his oral remarks when denying a new trial.”

“No envelope of the letter has been produced. It bears no postmark and no date. It has obtained not wholly in response to a letter, but a personal Appeal was made by a prominent Attorney, whose name I can give if it is desired, when the Judge was admittedly weak from physical infirmities.”

Completing his Argument, Mr. Dorsey:

“I am not without mercy, as your Excellency knows, for I have been before you to ask a Commutation of the Sentence of the poor and the penniless. But this man’s guilt was established in a trial that lasted thirty days. And I am only solicitous that the Laws be fairly and impartially enforced.”

“I am fearful that if the verdict in this very plain Case is not carried out against a man of influence, that the consequence to the respect for Law in the State will be most serious.”

Governor Slaton, at the conclusion of the Speech, asked for a Copy of it, and then announced that the Hearing would be resumed at 2:30 o’Clock, and that in the meantime he would visit the Factory to look after the physical points of the Case, but would hear no Statements while in the Factory.
